

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Curt Hébert, Jr., Chairman;
William L. Massey, and Linda Breathitt.

California Independent System Operator
Corporation

Docket Nos. EC96-19-055
and ER96-1663-058

ORDER ACCEPTING FOR FILING REVISED TARIFF
AND DENYING PROTEST

(Issued June 13, 2001)

In this order, we accept the California Independent System Operator Corporation's (ISO) revised tariff filed in compliance with Commission Order No. 614,¹ and deny the protest of the Public Utilities Commission of California (CPUC) regarding the tariff's unchanged provisions on confidentiality.

Background:

On October 13, 2000, the ISO submitted Replacement Volume Nos. I and II (Tariff) filed in compliance with Order No. 614. The ISO states that, except for certain minor revisions, its Tariff is unchanged other than to comply with the ministerial designation and formatting requirements of Order No. 614. The ISO notes that the Tariff also incorporates revisions submitted to the Commission in compliance with prior Commission orders, and that some of those compliance filings are still pending before the Commission. The ISO requests an effective date of October 13, 2000 for this revised tariff, except for those tariff sheets that the Commission has accepted in prior orders to become effective upon issuance of notice to market participants.

¹Designation of Electric Rate Schedule Sheets, 65 Fed. Reg. 18,221 (2000), FERC Statutes and Regulations ¶ 31,096 (2000). Order No. 614 requires that all rate schedules and tariffs follow certain formatting and designation requirements. Subsequent to June 1, 2000, any proposed change to a tariff or rate schedule must include the re-filing of the entire tariff or rate schedule correctly formatted and designated in compliance with that order.

Notice, Protests and Motions to Intervene:

Notice of the ISO's filing was published in the Federal Register, 65 Fed. Reg. 63,856 (2000), with comments, motions to intervene, and protests due on or before November 3, 2000. On November 6, 2000, the CPUC filed a motion to intervene out-of-time, limited protest, and comments. On November 21, 2000, Reliant Energy Power Generation, Inc. (Reliant Energy) and the ISO filed answers in response in CPUC's protest. Also on November 21, 2000, Duke Energy North America, LLC, Duke Energy Trading and Marketing, LLC, and Duke Energy Merchants, LLC, (collectively Duke Energy) filed a motion to intervene out-of-time and answer to the CPUC's protest, opposing the CPUC's protest and asking for its rejection.

The CPUC protests the unmodified confidentiality provisions of the ISO's Tariff,² and asks that these provisions be rejected and modified to provide that the confidentiality and disclosure provisions do not apply to requests for information from California state agencies with statutory responsibilities related to the regulation or oversight of the electric industry. The CPUC also asks that the ISO be required to respond to CPUC's data requests in the same manner it responds to data requests from the Commission.

Discussion:

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2000), we will grant the CPUC's and Duke Energy's late motions to intervene because of the absence of any undue prejudice or delay to this proceeding and for their showing of good cause. Rule 213(a)(2), 18 C.F.R. § 385.213(a)(2) generally prohibits an answer to a protest. We are not persuaded to allow the answers of Reliant Energy, the ISO, or Duke Energy. Accordingly, we will reject them.

We will deny the CPUC's protest of the tariff sheets as outside the scope of this proceeding. The ISO's instant filing is strictly ministerial in nature and is intended to comply with the requirement of Order No. 614. The confidentiality provisions protested by the CPUC are not being modified in this filing but rather are simply being re-paginated in conformance with Order No. 614.

² The CPUC protests Section 20.3, Confidentiality, as included in Sections 20.3.1 through 20.3.4 of the ISO Tariff, Original Sheet Nos. 289 through 293.

The only relevant issue in this proceeding is whether the ISO's Tariff filing complies with the requirements of Order No. 614.³ Our review indicates that the ISO's Tariff complies with Order No. 614, and no party has filed comments to the contrary. Therefore, the ISO's revised tariff, as filed, is accepted for filing and made effective October 13, 2000, as requested, except for those tariff sheets identified by the ISO that will become effective upon issuance of notice to market participants.⁴

Also, we note that included in the ISO's Tariff filing are revised tariff sheets that reflect the ISO's compliance with several different orders of the Commission, and that some of these compliance filings are still pending before the Commission. Therefore, this acceptance is without prejudice to further Commission action on the ISO's compliance filings currently pending before the Commission.

Finally, ISO submittals filed after October 13, 2000, the effective date of the revised tariff, whose designations were deferred, will receive their designations in a subsequent order.

The Commission orders:

(A) The ISO's proposed revised tariff is hereby accepted for filing and made effective October 13, 2000, as discussed in the body of this order.

(B) The CPUC's protest is hereby denied.

³See Mississippi River Transmission Corporation, 84 FERC ¶ 61,344 at 62,510 (1998) (only issue appropriate for review in a compliance filing is whether the filing complies with the order directing the filing).

⁴The ISO identifies Original Sheet Nos. 23, 202, 213-215, 241, 301, 309, 314, 544, 553, and 610 as sheets that will be assigned later effective dates upon issuance of notice to market participants.

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(C) The ISO is advised of the following tariff designation: FERC Electric Tariff, First Revised Volume No. 1, Original Sheet Nos. i through vi and 1 through 847 (Supersedes FERC Electric Tariff, Original Volume No. 1).⁵

By the Commission.

(S E A L)

David P. Boergers,
Secretary.

⁵This designation differs slightly from that which the ISO proposed and should be used in all future filings.